Supreme Court, U.S.
FILED

No. 051452 MAY 10 2006

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In The
Supreme Court of the United States

TERRANCE ROSS WILLAMAN,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

On Petition For Writ Of Certiorari
To The United States Court of Appeals
For The Third Circuit

PETITION FOR WRIT OF CERTIORARI

TERRANCE ROSS WILLAMAN
765 DEER CREEK ROAD
COCHRANTON, PA 16314
(814) 425-2080
Pro se Petitioner

QUESTIONS PRESENTED

The following questions are presented by the petitioner:

I. Is the Second Amendment, U.S. Constitution, an individual right?

II. Does Congress have the authority to regulate the right specified in the Second Amendment, U.S. Constitution, through the enactment of ordinary legislation?

III. Does a defendant in a federal criminal case have the right to argue his understanding of the Constitution to a jury?

PARTIES BELOW

Petitioner Terrance Ross Willaman was the defendant in federal criminal case no. 04-00028-1E in the Western District of Pennsylvania. The Respondent is the United States of America. Petitioner Terrance Ross Willaman was the defendant-appellant in case no 05-1336 in the United States Third Circuit Court of Appeals. Respondent United States of America was the respondent-appellee in the court below.

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PETITION FOR WRIT OF CERTIORARI

Terrance Ross Willaman, on behalf of himself, hereby petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Third Circuit, filed on February 17, 2006. There was no good-faith determination of the law in petitioner's case in either the district court or the Third Circuit Court of Appeals.

OPINION BELOW

The Court of Appeals' Opinion affirming the judgment of conviction and sentence, entered January 27, 2005, is reproduced at Pet. App 1a-11a, reported at 437 F.3d 354 (3d Cir. 2006).

JURISDICTIONAL STATEMENT

The Court of Appeals' final judgment was entered on February 17, 2006. This Court's jurisdiction is invoked pursuant to 28 U.S.C. § 1254(1).

CONSTITUTIONAL PROVISIONS INVOLVED

This case involves Article V and Amendment II of the United States Constitution.

Article V, United States Constitution provides:

> The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

Amendment II, United States Constitution provides:

> A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms shall not be infringed.

STATEMENT OF THE CASE

Petitioner Willaman's case originated on March 26, 2004, when Maurice Ferentino, an ATF agent, and two other federal agents approached Willaman at a hotel in Erie, Pennsylvania, where he was staying with his wife. Ferentino, who had obtained information that Willaman possessed a machine gun, at that time intended to serve a grand jury subpoena on him, apparently related to an ongoing investigation regarding weapons matters.

Willaman admitted to Ferentino at the hotel that he possessed a machine gun but told Ferentino that he would turn it over to the agents. Willaman and the agents subsequently left the hotel in separate cars to retrieve the weapon at Willaman's residence. Once they arrived at the residence, he dug up the machine gun from the place where he had buried it, and the agents took possession of it.

On May 11, 2004, a grand jury indicted Willaman for knowingly and unlawfully possessing a firearm in violation of 26 U.S.C. § 5861(d), and, on September 15, 2004, a grand jury returned a superseding indictment charging Willaman with knowingly and unlawfully possessing a machine gun in violation of 18 U.S.C. § 922(o)(1).

Following the original indictment, Willaman appeared before a magistrate-judge on May 12, 2004, at which time she set bail. Nevertheless, Willaman was not arraigned until May 17, 2004, at which time he pleaded not guilty. On May 25, 2004, eight days after his arraignment, Willaman filed several pre-trial motions: (1) a motion to dismiss the indictment under Federal Criminal Rule 12(b)(2); (2) a motion to dismiss and a motion to suppress statements and evidence based on alleged violations of the First, Second, Fourth, and Fifth Amendments; (3) a motion to dismiss based on double jeopardy; and (4) a motion seeking to have the court instruct the jury that it could nullify the effect of the law in this case. The district court denied these four motions on August 18, 2004.

The trial in this case commenced on October 19, 2004. Immediately prior to the trial, Willaman unsuccessfully moved to dismiss the indictment based on asserted Speedy Trial Act, 18 U.S.C. § 3161 et seq., violations. At the trial's conclusion the jury found Willaman guilty on the superseding indictment. The court subsequently sentenced Willaman to a custodial term of 27 months to be followed by a three-year period of supervised release. Willaman timely appealed. Petitioner's appeal was denied in all respects on February 17, 2006.

REASONS FOR GRANTING THE WRIT

The Writ must be granted because the confusion in the lower courts causes disdain for the judiciary and the unequal treatment from circuit to circuit is unchecked.

> Underneath the social unrest of the world today, as its main underlying cause, is the feeling in the breasts of the masses that justice is not for them. They do not know the cause, nor can they suggest the remedy,—and so they only want to destroy. Society to them has come to mean organized injustice.
>
> John Rustgard, *Dry Bones – The Remedy for the Evil*, 88 Central Law Journal, p. 341, 344 (May 9, 1919).

I. The Second Amendment, U.S. Constitution, is an individual right.

Second Amendment case law in the lower courts can most charitably be described as a shambles.

A few samples of that confusion are used to illustrate the rampant confusion in the lower courts.

In the Ninth Circuit there is no individual right to possess arms.